

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: AR&T Committee

Analyst: John Pavalasky

Bill Number: AB 1115

Related Bills: See Prior Analysis

Telephone: 845-4335

Amended Date: June 19, 2001

Attorney: Patrick Kusiak

Sponsor: Franchise Tax Board

SUBJECT: Nonresident Taxation/Coordination of Minimum Tax Credit with Credits that Reduce Tax Below Tentative Minimum Tax/Full Payment Rule/ Usage of Tax Credit by Holders of Interests in Pass-Through Entities/ Disclosure of Return and Return Information for Personnel Matters/ Limited Partnership Tax Technical Change

X DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 23, 2001.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSES OF BILL AS INTRODUCED February 23, 2001, AND AMENDED April 23, 2001, STILL APPLY.

X OTHER - See comments below.

SUMMARY

This Franchise Tax Board (FTB) sponsored bill would:

- **Make a comprehensive change in the manner that nonresidents and part-year residents are taxed** - Specify, for the first time, clear, definitive rules that would be applied consistently to all taxpayers for calculating loss carryovers, deferred deductions, and deferred income.
- **Resolve a potential federal constitutional issue** - Allow the alimony deduction and itemized deductions to nonresidents, thus making California law consistent with case law from the U.S. Supreme Court.
- **Coordinate the Alternative Minimum Tax Credit (AMTC) with credits that reduce tax below Tentative Minimum Tax (TMT)** - Eliminate conflicting statutory language and provide clear and definitive rules for the ordering of credits that are applied against tax.

Board Position:

<u>X</u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> </u> PENDING

Legislative Director

Date

Brian Putler

06/22/01

- **Full payment rule** - Ensure that taxpayers can file refund claims for overpaid income taxes even though the tax was paid through installment payments.
- **Usage of tax credits by holders of interests in pass-through entities** - Remove an inequity in the law by allowing a holder of an interest in a pass-through entity to realize the same tax benefits whether the pass-through entity files on a fiscal year or calendar year basis.
- **Disclosure of return and return information for personnel matters** - Authorize disclosure of confidential taxpayer information to an FTB employee or former FTB employee, a legal representative of such employee, an Administrative Law Judge (ALJ), or a Superior Court Judge for use in disciplinary actions. The authorization provided by this provision would follow the same methodology used by the Internal Revenue Service (IRS) in handling personnel actions.
- **Limited partnership tax technical change** - Make references to the limited partnership annual tax in the Revenue and Taxation Code (R&TC) correct and consistent.

SUMMARY OF AMENDMENTS

The June 19, 2001, amendments would prorate the standard deduction in the same manner as itemized deductions are prorated in the case of nonresidents and part-year residents. This amendment is consistent with other aspects of the legislation that seeks to eliminate the unconstitutional limitation on the deduction for alimony, will not alter the revenue associated with the proposal, and will eliminate a measure of complexity (since the same ratio would be used for itemized deductions or the standard deduction).

In addition, three other technical amendments are made to delete an unnecessary word, correct an operative date, and to more clearly specify the operative date of the alimony deduction.

The remainder of the previous analyses dated March 26, 2001, and June 19, 2001 still apply.

POSITION

Support.

At its December 18, 2000, meeting, the Franchise Tax Board voted 2-0 to sponsor the language introduced in this legislation.

LEGISLATIVE STAFF CONTACT

John Pavalasky
Franchise Tax Board
845-4335

Brian Putler
Franchise Tax Board
845-6333